



**METHOD FOR ALLOCATING LISTINGS IN SKY'S EPG**

**28 February 2022**

## Method for allocating listings in Sky's EPG

### INTRODUCTION

This statement ("Listing Methodology") sets out Sky's method for allocating listings in its electronic programme guide ("EPG"), also known as "Sky Guide". This version of the Listing Methodology takes effect from 28 February 2022.

Sky allocates EPG listings to television channels and radio stations (which together are referred to as "services" in this document). Where services are distributed on a pay TV basis, Sky usually enters into an agreement for EPG services with the company distributing such services (and in this document, references to the "distributor" are to be read as referring to such a pay TV distributor). In the case of free-to air services, Sky enters into an EPG services agreement directly with the broadcaster of the service.

Sky will continue to update this Listing Methodology from time to time (in consultation with broadcasters) as its method for allocating EPG listings evolves.

This Listing Methodology comprises six sections:

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## SECTION ONE: MINIMUM REQUIREMENTS

Set out below are the minimum requirements for standard definition (“SD”) channels, high definition (“HD”) channels and Plano stereoscopic three dimensional (“3D”) channels, namely:

- Minimum programming requirements (section 1.2);
- Branding requirements (section 1.3);
- References to Sky (section 1.4); and
- Technical requirement and content standards (section 1.6).

### 1.1 Channel categories

For the purposes of setting the minimum programming requirements in section 1.2 and the branding requirements in section 1.3, Sky has categorised certain channel number ranges into categories A, B and C, as set out in the table below:

Term	Definition
“Category A channels”	Channels listed in the following EPG number ranges: <ul style="list-style-type: none"><li>• 101 to 122 of the <b>Entertainment</b> and <b>Documentaries</b> genres;</li><li>• 401 to 414 of the <b>Sports</b> genre;</li><li>• 601 to 610 of the <b>Kids</b> genre; and</li><li>• 301 to 308 of the <b>Movies</b> genre.</li></ul>
“Category B channels”	Channels listed in the following EPG number ranges: <ul style="list-style-type: none"><li>• 123 to 144 of the <b>Entertainment</b> and <b>Documentaries</b> genres; and</li><li>• 309 to 315 of the <b>Movies</b> genre.</li></ul>
“Category C channels”	Channels listed in the following EPG number ranges: <ul style="list-style-type: none"><li>• 145 onwards in the <b>Entertainment</b> and <b>Documentaries</b> genres;</li><li>• 611 onwards in the <b>Kids</b> genre;</li><li>• 415 onwards in the <b>Sports</b> genre;</li><li>• 316 onwards in the <b>Movies</b> genre; and</li><li>• 701 to 705 and 731 to 733 of the <b>International</b> genre.</li></ul>

*In the case of channels that are regionalised, the channel's highest EPG position in any region will determine the channel's category across all regions.*

#### *Exempt channels*

“Public service channels” (as defined in section 3.3 of the Listing Methodology) shall be excluded from the minimum programming requirements and branding requirements at sections 1.2 and 1.3 of the Listing Methodology.

### 1.2 Minimum programming requirements

Broadcasters must ensure that the programming on their services(s) meets the following minimum programming requirements as further detailed in sections 1.2.1 to 1.2.4 below:

- minimum non-repeating programming requirements;
- minimum broadcast hours; and
- limitations on teleshopping.

The table provided at section 1.2.4 below sets out the specific minimum programming requirements for each service category, genre or type (“Programming Requirements Table”).

### *1.2.1 Minimum non-repeating programming requirements*

Broadcasters must ensure that the programming on their services(s) meets the following two types of minimum non-repeating programming requirements (where applicable):

- **“Peak Requirements”**: All television channels must broadcast continuous non-repeating programming during their peak broadcast hours each day, subject to certain exceptions - see column 2 of the Programming Requirements Table below; and
- **“Overall Requirements”**: All television channels and radio stations must broadcast a minimum number of hours of non-repeating programming during each 7 day period (as applicable), subject to certain exceptions - see column 3 of the Programming Requirements Table below.

In this section 1.2, “non-repeating programming” means programming which has not already been scheduled and broadcast on the relevant service during the “relevant period”:

- the “relevant period” for Peak Requirements is the peak broadcast hours, as further detailed in column 2 of the Programming Requirements Table; and
- the “relevant period” for the Overall Requirements is a 7 day period, as further detailed in column 3 of the Programming Requirements Table below.

Where a service is constituted by regional variants or viewer-type variants, the thresholds must be met in respect of each variant.

While a single programme may not be scheduled and broadcast twice within the peak broadcast hours on a single day, the same programme may be repeated outside of the peak broadcast hours on a single day and within the peak broadcast hours on any other day.

The same programme may count towards the minimum programming requirements for both the Peak Requirements and the Overall Requirements.

### *Exceptions to the minimum non-repeating programming requirements*

In exceptional circumstances, television channels may be exempted from complying with the Peak Requirements where the broadcaster of the relevant television channel has legitimate scheduling reasons for not complying with the requirements based on its intention to optimise its channel’s overall performance provided that programming is broadcast on the relevant channel continuously during its peak broadcast hours. This exemption only applies where it has been agreed in writing in advance of any schedule changes between Sky and the relevant broadcaster and/or distributor.

The Peak Requirements and the Overall Requirements shall not apply to those television channels and radio stations which are intended to provide viewers with information about the EPG or the platform (such as the Sky Intro channel), channels available on a pay-per-view basis and channels which are only available to the personnel of the broadcaster and/or companies closely connected to the broadcaster.

### *Treatment of simulcast programming*

In this section 1.2, “programming which is simulcast” shall mean programming appearing on two or more services at the same time, or which appears on a second service within 15 minutes of appearing on the first service, but only where the services are broadcast by the same broadcaster or where the broadcasters are within the same majority owned corporate group.

Television channels and radio stations consisting of programming which is simulcast on another television channel or radio station usually occupy an EPG channel number and use set top box memory without providing additional value to viewers.

In light of this, where programming is simulcast on a second (and any subsequent) television channel or radio station, such programming will only count as “non-repeating programming” on one of such television channels or radio stations.

Unless otherwise agreed with the broadcaster(s) of the relevant television channels or radio stations, simulcast programming will only count as “non-repeating programming” for the first of the channels or stations, as determined by which comes first in the “All Channels” section in the EPG. Accordingly, simulcast programming will be disregarded when considering whether the second (and any subsequent) channels or stations meet the requirements.

Sky will consider departing from this policy on a case-by-case basis as a strictly temporary measure if a broadcaster can demonstrate that exceptional circumstances require it to simulcast programming on two or more television channels or radio stations for a limited period.

This policy with regard to simulcasting does not apply to any programme which is a high definition simulcast or a 3D simulcast, to any “out of area” regional variants which are listed in the EPG or to any programme on a Local TV simulcast (as defined in section 4.4 of the Listing Methodology) which is a simulcast of a programme on one or more other Local TV simulcasts.

### *1.2.2 Minimum broadcast hours*

Broadcasters must ensure that their channel(s) broadcast a minimum number of hours of programming (i.e., content other than a static slate or series of slates) each day:

- certain categories of channel must broadcast programming continuously during a specified time period each day; and
- other channels are required to broadcast a minimum number of hours of programming in each 24 hour period (i.e. each calendar day).

The applicable time period/number of hours for each channel category, genre or type is set out at Column 4 of the Programming Requirements Table.

### *Exceptions to the minimum broadcast hours requirements*

The minimum broadcast hours requirements shall not apply to channels available on a pay-per-view basis, channels which are only available to the personnel of the broadcaster and/or companies closely connected to the broadcaster and any television channel or radio station in respect of which regulatory restrictions prevent the broadcast of the requisite amount of programming.

### *1.2.3 Limits on teleshopping*

Broadcasters must ensure that their channels comply with any applicable limits on the time periods during which they may broadcast teleshopping content and the number of hours of teleshopping content that may be broadcast during such time periods.

The applicable limits for each channel category, genre or type are set out at Column 5 of the Programming Requirements Table.

### *1.2.4 Programming Requirements Table*

The following table specifies the minimum programming requirements that apply to each channel category, genre or type:

<b>Channel category, genre or type</b>	<b>Minimum non-repeating programming (during peak broadcast hours)</b>	<b>Minimum non-repeating programming (overall requirements)</b>	<b>Minimum broadcast hours</b>	<b>Limits on teleshopping</b>
Category A channels (except those listed in the Sports and Kids genres)	Must broadcast continuous non-repeating programming between the hours of 7pm and 10pm each day.	Must broadcast 12 hours of non-repeating programming in each 7 day period.	Must broadcast programming between the hours of 6am and 3am.	Must not broadcast teleshopping content outside the hours of 1am to 8am and must broadcast no more than four hours of teleshopping content between the hours of 1am to 8am.
Category A channels listed in the Sports genre	Must broadcast continuous non-repeating programming between the hours of 7pm and 10pm each day.	Must broadcast 12 hours of non-repeating programming in each 7 day period.	Must broadcast programming between the hours of 6am and 3am.	Must not broadcast teleshopping content outside the hours of 1am to 8am and must broadcast no more than four hours of teleshopping content between the hours of 1am to 8am.
Category A channels listed in the Kids genre	Must broadcast continuous non-repeating programming between the hours of 3pm and 6pm each day.	Must broadcast 12 hours of non-repeating programming in each 7 day period.	Must broadcast programming between the hours of 6am and 7pm.	Must not broadcast teleshopping content outside the hours of 1am to 8am and must broadcast no more than four hours of teleshopping content between the hours of 1am to 8am.
Category B channels (except those listed in the Movies genre)	Must broadcast continuous non-repeating programming between the hours of 7pm and 10pm each day.	Must broadcast 12 hours of non-repeating programming in each 7 day period.	Must broadcast programming between the hours of 6am and midnight.	Must not broadcast teleshopping outside the hours of 11pm to 9am.
Category B channels listed in the Movies genre	Must broadcast continuous non-repeating programming between the hours of 7pm and 10pm each day.	Must broadcast 12 hours of non-repeating programming in each 7 day period.	Must broadcast programming between the hours of 6am and midnight.	Must not broadcast teleshopping outside the hours of 11pm to 12 noon.

<b>Channel category, genre or type</b>	<b>Minimum non-repeating programming (during peak broadcast hours)</b>	<b>Minimum non-repeating programming (overall requirements)</b>	<b>Minimum broadcast hours</b>	<b>Limits on teleshopping</b>
Category C channels (except those listed in the Kids genre)	Must broadcast continuous non-repeating programming between the hours of 7pm and 10pm each day.	Must broadcast 12 hours of non-repeating programming in each 7 day period.	Must broadcast no less than 12 hours of programming in each 24 hour period.	Must not broadcast teleshopping within peak broadcast hours.
Category C channels listed in the Kids genre	Must broadcast continuous non-repeating programming between the hours of 3pm and 6pm each day.	Must broadcast 12 hours of non-repeating programming in each 7 day period.	Must broadcast no less than 12 hours of programming in each 24 hour period.	Must not broadcast teleshopping within peak broadcast hours.
Timeshift television channels	See requirements for the Principal Channel, but adjusted to reflect that fact that it is a Timeshift Channel.	See requirements for the Principal Channel, but adjusted to reflect that fact that it is a Timeshift Channel.	See requirements for the Principal Channel, but adjusted to reflect that fact that it is a Timeshift Channel.	See requirements for the Principal Channel, but adjusted to reflect that fact that it is a Timeshift Channel.
Television channels listed in the Religion and Adult genres	N/A	Must broadcast 12 hours of non-repeating programming in each 7 day period.	Must broadcast no less than 8 hours of programming in each 24 hour period.	N/A
Television channels listed in the Shopping genre	N/A	Must broadcast 6 hours of non-repeating programming in each 7 day period.	N/A	N/A
All other television channels	Must broadcast continuous non-repeating programming between the hours of 7pm and 10pm each day.	Must broadcast 12 hours of non-repeating programming in each 7 day period.	Must broadcast no less than 12 hours of programming in each 24 hour period.	N/A
Radio stations	N/A	Must broadcast 12 hours of non-repeating programming in each 7 day period.	N/A	N/A
Sports PPV	N/A	N/A	N/A	N/A

### 1.3 Branding Requirements

#### 1.3.1 Category A and Category B channels

Category A channels and Category B channels must have positive brand resonance. In this section 1.3.1, 'positive brand resonance' means that:

- the channel must be an established brand within the UK/ROI (e.g. a channel would meet this criterion where it is a well-known brand that has been broadcasting for many years and is available on a wide range of platforms);
- in the context of a new channel launch/channel rebrand, the channel is branded with an umbrella brand which is well known amongst consumers (e.g. channels launched under the “Sky” umbrella brand would meet this criterion, such as Sky Nature, Sky History and Sky Documentaries); or
- in the context of a new channel launch/rebrand, the channel will be launching with a significant above the line marketing campaign with the aim of quickly establishing a brand identity.

### *1.3.2 Category C channels in the International genre*

Category C channels in the International genre must have positive brand resonance. In this section 1.3.2, ‘positive brand resonance’ means that:

- the channel must be an established brand for speakers of the language in which the channel is broadcast (e.g. B4U, Sony TV in the number range for Hindi language channels);
- in the context of a new channel launch/channel rebrand, the channel is branded with an umbrella brand which is well known amongst speakers of that language (e.g. the Utsav brand for channels in number range for Hindi language channels and the HUM brand for channels in the number range for Urdu channels); or
- in the context of a new channel launch/rebrand, the channel will be launching with a significant above the line marketing campaign with the aim of quickly establishing a brand identity amongst speakers of that language.

## **1.4 References to Sky**

Broadcasters must not:

- use their channel(s) to make derogatory or derisory statements about Sky calculated to denigrate Sky and/or the Sky platform or to make statements to viewers regarding contractual negotiations or commercial discussions with Sky (for the avoidance of doubt, comments made by on-screen talent which represent the personal opinion of that talent (for example, as part of a documentary, current affairs programme or satirical quiz show) shall not be considered to be inconsistent with this requirement);
- make any statement on their channel(s) concerning the availability of any of their channel(s) on other platforms carrying audio-visual services without making an equivalent statement concerning the availability of such channel(s) on the Sky platform if available on the Sky digital satellite platform;
- make any statement advising or encouraging viewers to view any of their channel(s) available on the Sky platform on another platform carrying audio-visual services instead of on the Sky platform;
- broadcast a static slate on any channel without the prior written consent of Sky, except in the case of sudden and unexpected technical failure and in such circumstances the broadcaster shall work to resume normal programming as soon as possible; or
- make any changes to a channel’s content or broadcast hours with the intention of degrading the viewer experience or causing viewer confusion as regards the availability of that channel on the Sky platform.

Any on-air or on-screen messaging must be agreed in advance with Sky where a channel is due to close, rebrand or move to a different genre or EPG number.

## **1.5 Result of not complying with the minimum requirements described above**

Sky shall be entitled to immediately suspend the provision of EPG services if a service fails to meet the relevant requirements set out in sections 1.2 to 1.4, and during any such period of suspension Sky

may broadcast a static slate in place of the channel.

Sky may permanently terminate such listing if the listing remains suspended for one (1) month or more (or in the case of channels with a viewing share on the Sky platform of 0.1% or greater, if the listing remains suspended for a period of 7 days or more).

## **1.6 Technical requirements and content standards**

### **1.6.1 Technical requirements for HD television channels**

Broadcasters wishing to broadcast television channels in HD will only be allocated a listing in the EPG if they comply with the following technical requirements:

- (i) HD television channels must comply with the Technical Specifications and Broadcast Requirements notified by Sky from time to time in accordance with the relevant EPG Services Agreement. The Broadcast Requirements will require that the channel is broadcast in either "1080i/25" or "720p/50" format. Such formats are described in the technical recommendation "EBU - TECH 3299 - E", and, in the case of 1080i/25, as further detailed in the specification "SMPTE 274M-2003" (in each case as amended from time to time);
- (ii) HD television channels must include a primary audio component encoded as a Dolby AC-3 audio stream, as described in "ETSI TR 101 154 - Annex C" (as amended from time to time), such that they are capable of delivering multi-channel audio in Dolby Digital 5.1;
- (iii) HD television channels broadcast in 1080i/25 format must be encoded for broadcast using a horizontal resolution sufficient to ensure that the level of visual detail is not materially degraded, when compared to the source material; and
- (iv) HD television channels must be broadcast using a video bitrate sufficient to ensure that minimal (or no) coding artefacts are introduced at the point of transmission. As a guide:
  - for the first generation of H.264 encoding technologies this would be no less than an average video bitrate of 15Mb/s for sport content, 11Mb/s for movie content and 13Mb/s for other content, when the HD channel is broadcast within a statistically multiplexed group of services sharing 36Mb/s of satellite transponder capacity for the video content; and
  - for the second generation of H.264 encoding technologies this would be no less than an average video bitrate of 12Mb/s for sport content, 8.5Mb/s for movie content and 10.5Mb/s for other content, when the HD channel is broadcast within a statistically multiplexed group of services sharing 36Mb/s of satellite transponder capacity for the video content.
  - for the subsequent generations of H.264 encoding technologies further efficiencies are anticipated. When Sky is in a position to provide further relevant guidance this section of the Listing Methodology may be revised accordingly.

It should be noted that where a constant bitrate is employed, the bitrate required to ensure that minimal (or no) coding artefacts are introduced at the point of transmission is normally higher than those stated above.

### **1.6.2 Content standards for HD television channels**

In addition to meeting the technical requirements set out at section 1.6.1 above, HD television channels listed in Sky's EPG must broadcast a certain amount of "native HD" programmes.

In this context, "native HD" programmes means programmes in an HD format with a native resolution of no less than 720 lines in a 16:9 aspect ratio where intended for broadcast at 720p/50 or with a resolution of no less than 1080 lines in a 16:9 aspect ratio where intended for broadcast at 1080i/25, and in respect of which no less than 75% of the programme (measured by duration) has been:

- (i) acquired uncompressed; or
- (ii) acquired compressed on DVCProHD, AVC-Intra 100, AVC-Ultra, HDCamSR, HDD5, HDCam or DVC Pro 100, in each case at 720 or 1080 native resolution and where shot on a three image sensor camera with each image sensor being of one half inch or greater; or
- (iii) acquired compressed at a bitrate of no less than 50Mb/s on any other medium where shot on a three image sensor camera with each image sensor being of one half inch or greater; or
- (iv) shot on no less than 35mm film that has been transferred to 720 or 1080 at native resolutions,

and, in each case, which has been subsequently stored, at all stages prior to transmission, at either:

- (i) a bitrate of no less than 50Mb/s where inter-frame coding is utilised; or
- (ii) a bitrate of no less than 100 Mb/s where frame-based coding is utilised.

At the time of writing, the XDCam EX acquisition format does not support bitrates of 50Mb/s. Therefore, programmes acquired on this format do not constitute "native HD" programmes for the purposes of this policy.

In order to be listed in Sky's EPG, an HD channel must:

- (i) in the case of pay-per-view channels, consist of no less than 75% native HD programmes; and
- (ii) in the case of other channels, comply with any one (or more) of the options below:
  - the channel may consist of no less than 75% native HD programmes provided that it also includes an amount of native HD programmes that alone meets (without any contribution from any non-native HD programmes) the minimum number of hours of non-repeating programming required to be broadcast under section 1.1; or
  - the channel may include no less than 320 hours of non-repeating native HD programmes in each 12 month period provided that the channel includes no less than 70 hours of non-repeating native HD programmes in each 3 month period; or
  - the channel may include no less than 500 hours of native HD content in each 3 month period (which may include repeated native HD content provided that the channel has a minimum of no less than 40 hours of non-repeating native HD programmes each calendar month).

Sky will consider departing from its requirement that all HD channels contain such minimum amount of HD programming on a cases-by-case basis as a strictly temporary measure if a broadcaster can

demonstrate that exceptional circumstances have prevented it from broadcasting the minimum number of HD hours a channel is required to broadcast each quarter.

Broadcasters must inform Sky when they first start broadcasting in HD, and on each anniversary thereafter, which of the options above they are seeking to meet.

For the avoidance of doubt, the minimum number of HD hours requirements apply in addition to the minimum broadcast hour requirements set out in section 1.1 of the Listing Methodology.

Sky expects that it will be appropriate to modify the content requirements for HD television channels as both HD technology, and viewers' expectations, develop. Future requirements may include the requirement to broadcast content accompanied by multi-channel audio. Broadcasters and distributors will be consulted about any changes to the requirements.

### **1.6.3 Technical requirements for 3D channels**

Broadcasters wishing to broadcast television channels in 3D will only be allocated a listing in the EPG if they comply with the following technical requirements:

- (i) 3D channels must comply with the Technical Specifications and Broadcast Requirements notified by Sky from time to time in accordance with the relevant EPG Services Agreement. The Broadcast Requirements will require that the channel is broadcast in "1080i/25" format. 1080i/25 is described in the technical recommendation "EBU - TECH 3299 - E", and further detailed in the specification "SMPTE 274M-2003" (in each case as amended from time to time);
- (ii) 3D channels must include a primary audio component encoded as a Dolby AC-3 audio stream, as described in "ETSI TR 101 154 - Annex C" (as amended from time to time), such that they are capable of delivering multi-channel audio in Dolby Digital 5.1;
- (iii) 3D channels must be encoded for broadcast using a horizontal resolution sufficient to ensure that the level of visual detail is not materially degraded, when compared to the post 3D-multiplexed source material; and
- (iv) 3D channels must be broadcast using a video bitrate sufficient to ensure that minimal (or no) coding artefacts are introduced at the point of transmission. As a guide:
  - for the first generation of H.264 encoding technologies this would be no less than an average video bitrate of 15Mb/s for sport content, 11Mb/s for movie content and 13Mb/s for other content, when the 3D channel is broadcast within a statistically multiplexed group of services sharing 36Mb/s of satellite transponder capacity for the video content; and
  - for the second generation of H.264 encoding technologies this would be no less than an average video bitrate of 12Mb/s for sport content, 8.5Mb/s for movie content and 10.5Mb/s for other content, when the 3D channel is broadcast within a statistically multiplexed group of services sharing 36Mb/s of satellite transponder capacity for the video content.

Whilst average bitrates have been provided as a guide above, care should be taken to ensure that the peak demands for bandwidth can also be accommodated to ensure consistency in maintaining the level of picture detail required by 3D. It should be noted that where a constant bitrate is employed, the bitrate required to ensure that minimal (or no) coding artefacts are introduced at the point of transmission is normally higher than those stated above.

#### **1.6.4 Content standards for 3D channels**

In addition to meeting the technical requirements set out at section 1.6 above, 3D channels listed in Sky's EPG must broadcast a certain amount of "Compliant 3D" programmes.

In this context, Compliant 3D programmes means programmes accompanied by multi-channel audio (as described in section 1.6(ii) above) in respect of which no less than 75% of the programme (measured by duration) has been shot using identical camera pairs each with a three image sensor array, with each image sensor being of one half inch or greater and in each case:

- (i) with a native resolution of 1920 by 1080 pixels and at a frame rate of 25 frames per second as 50 fields per second interlaced; or
- (ii) with a native resolution of 1920 by 1080 pixels and at a frame rate of 25 frames per second progressive,

and, in each case:

- (i) acquired uncompressed; or
- (ii) acquired compressed on HDCamSR 4:2:2 x 2 dual link synchronous records at 440 Mb/s; or
- (iii) acquired compressed on HDCamSR or HDCam with individual Left Eye/Right Eye tapes and synchronised identical timecode; or
- (iv) acquired compressed on DVCProHD, DVCPro 100, AVC-Intra 100 or HDD5 with individual Left Eye/Right Eye tapes and synchronised identical timecode; or
- (v) acquired compressed directly as MPEG2 Intra-frame at a bitrate of no less than 100Mb/s to a server based Stereoscopic playback device,

and, in each case, which has been subsequently stored, at all stages prior to transmission, at either:

- (i) a bitrate of no less than 50Mb/s where intra-frame coding is utilised; or
- (ii) a bitrate of no less than 100 Mb/s where frame-based coding is utilised.

For the avoidance of doubt, for a programme to remain a Compliant 3D programme, any two dimensional ("2D") source footage, or 2D source footage which has been artificially rendered to produce 3D like effects, must not exceed 25% of the total programme duration.

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Note: Where an original production has been shot in 2D on no less than 35mm film and has been transferred to 1080 lines at native resolution or which has been produced entirely in the digital domain at equivalent resolution and has been subsequently processed as a whole to create a 3D counterpart then, on a case by case basis, Sky may, at its sole discretion, allow this content to be considered a Compliant 3D programme for the purposes of this section 1.6.

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In order to be listed in Sky's EPG, a 3D channel must consist of no less than 90% Compliant 3D programmes.

Sky will consider departing from its requirement that all 3D channels contain at least 90% Compliant 3D programmes on a case-by-case basis as a strictly temporary measure if a broadcaster can demonstrate that exceptional circumstances have prevented it from broadcasting this percentage of Compliant 3D programmes.

Sky expects that it will be appropriate to modify the content requirements for 3D channels as both 3D technology, and viewers' expectations, develop. Broadcasters and distributors will be consulted about any changes to the requirements.

#### **1.6.5 Result of not complying with the technical requirements and content standards**

Sky shall be entitled to suspend the provision of EPG services for an HD channel or a 3D channel if it fails to meet the relevant requirements set out in this section 1.6 (and Sky may permanently terminate such listing in accordance with the relevant EPG Services Agreement if the listing remains suspended for one (1) month or more). Sky shall consult with the broadcaster and/or distributor before exercising its right to suspend an EPG listing. As part of such consultation, any HD channel which did not launch into the EPG via the HD/3D launch queue, details of which are set out in section 4.3 of this Listing Methodology (the "HD/3D launch queue"), will be given the option of broadcasting the channel in SD. However, a channel that has launched into the EPG via the HD/3D launch queue will not be given the option of broadcasting the channel in SD, as this would increase the amount of memory used by SD set top boxes and could result in significant memory constraints for certain Sky SD set top boxes.

## SECTION TWO: EPG SECTIONS

Sky's EPG is divided into a number of sections (also known as "tabs" or "filters") which provide access to the EPG listings for television channels and radio stations.

Television channels and radio stations may be listed in multiple sections. For example, an HD channel allocated to the Entertainment genre would be listed in the All Channels, Entertainment and HD sections. A Timeshift Channel allocated to the Movies genre would be listed in the All Channels, Movies and +1 sections.

### 2.1 All Channels section

Sky's EPG includes an All Channels section, which lists all television channels and radio stations in order of channel number.

### 2.2 Genre based sections

Sky's EPG includes sections based on genres, which list all television channels assigned to that genre (or to a sub-genre within that genre).

The current list of genres (and sub-genres) is shown in the table below:

Genre*	Sub-Genres**
Entertainment	None
Documentaries	None
Kids	None
Movies	None
Music	None
Sports	Subscription and free-to-air Pay-per-view channels
News	None
Shopping	None
Religion	None
International	None
Adult	Adult Dating

\* On SD set top boxes and some older Sky+HD set top boxes some redundant genre sections continue to be listed. However no channels will be listed under these redundant genre sections. Where viewers select a redundant genre section on one of these boxes they will be presented with the message "There are no programmes of this type".

\*\* "Sub-genres" are sub-categories within certain genres. Sub-genres are not separately labelled on the EPG.

*Assessing the relevant genre or sub-genre for a channel that is launching via the HD/3D launch queue, the Local TV launch queue or is launching following the transfer of the right to be listed in the EPG*

Sky may make a preliminary assessment of the appropriate genre or sub-genre for a service before a service is launched into the EPG (whether via the HD/3D launch queue, the Local TV launch queue or following the acquisition by a broadcaster of the right to be listed in the EPG). Where such preliminary assessments are made, they will be communicated to the broadcaster or distributor.

The final decision as to the appropriate genre or sub-genre is made by Sky after reviewing:

- (i) scheduling, event and synopsis information for the first 14 days of the service's broadcast (this information must be transmitted to Sky at least 14 days before the service's launch into the EPG);
- (ii) any other information which Sky may request from the broadcaster or distributor and which the broadcaster or distributor wishes to provide: the information that Sky may request may include a preview tape showing a sample of the programming that will be broadcast on the service, information about the content to which the broadcaster has acquired rights and details of the broadcaster's target audience; and
- (iii) any relevant publicly available information: this may include information on the broadcaster's website, the broadcaster's marketing material and, if the service is already broadcasting via satellite or on another platform, the broadcast output itself.

In making its decision, Sky will give greater weight to its analysis of programming which is scheduled for broadcast at launch (and interactive content which can be accessed from the service) than to representations about content which is planned for the future.

Where a channel in the HD/3D launch queue or the Local TV launch queue has been allocated a launch date and the final decision as to the appropriate genre for that channel is different to any preliminary assessment previously communicated to the broadcaster or distributor, it may be necessary for the service to be launched at a later date. This action will be taken where there may not be enough EPG channel numbers left in a genre or sub-genre to accommodate the launch of (i) all channels in the HD/3D launch queue and the Local TV launch queue which are expected to launch into that genre or sub-genre and which have been allocated a launch date, and (ii) all channels which are expected to move into that genre or sub-genre as the result of the transfer of an EPG slot in accordance with section 4.2 of this Listing Methodology, and in respect of which all relevant documentation to effect the transfer has been signed by all parties. As Sky periodically re-organises the EPG to accommodate new channels in genres which are full, Sky would expect to need to take this action only rarely.

Where a launch is deferred, Sky will allocate a new EPG launch date to the service on a "*first-come, first-served basis*" if room becomes available at the bottom of the relevant genre or sub-genre.

#### *Assessing channels that are currently listed in the EPG*

Where it becomes apparent to Sky at any time that a service listed in the EPG would be more appropriately listed in a different genre, sub-genre, number range or category (in accordance with sections 2 and 3 of the Listing Methodology), Sky may, after consulting with the broadcaster (and, if applicable, distributor), move the service to the more appropriate genre, sub-genre, number range or category. This may happen as a result of changes to (i) the content on a service; (ii) the type and nature of a service; (iii) any services offered through that service; or (iv) Sky's criteria for listing services in particular genres, sub-genres, number ranges or categories. References in this paragraph to "number range" are limited to the Timeshift Channel Number Range, the Secondary

Channel Number Range, the number range for Secondary Channels in the Kids genre and the HD Simulcast Number Range as described in sections 3.4 and 3.6.

*Rules applicable to all services*

The assessment of the appropriate genre or sub-genre, in light of the criteria set out below, is ultimately a matter for Sky. Sky will seek to be fair, reasonable and non-discriminatory in its approach to such assessment.

The following guidance explains the criteria applied by Sky in determining the relevant genre or sub-genre.

(a) *Entertainment genre*

A channel will be allocated a channel number in the Entertainment genre if its programming is predominantly of a general entertainment nature, is of appeal to a wide audience and is not more appropriately listed in another existing genre. (For example, a movie channel may carry programming which is of a general entertainment nature and appeals to a wide audience; nevertheless, such a channel is more appropriately listed in the Movies genre.)

(b) *Documentaries genre*

A channel will be allocated a channel number in the Documentaries genre if its programming is predominantly documentaries. In this context, "documentaries" might include factual programmes and "docudramas" focusing on the factual depiction of people, places, events, history or the environment.

(c) *Kids genre*

A channel will be allocated a channel number in the Kids genre if its programming is aimed at children aged 15 and under. Channels in this genre should not comprise any material unsuitable for children aged 15 or under.

(d) *Movies genre*

A channel will be allocated a channel number in the Movies genre if its programming is predominantly movies and pre-view/promotional material relating to movies.

(e) *Music genre*

A channel will be allocated a channel number in the Music genre if its programming is predominantly music and music related programming, or if the channel has a strong music theme.

(f) *Sports genre*

A channel will be allocated a channel number in the Sports genre if its programming is predominantly sports, sports news and/or companion programming to support coverage of sports events. The genre is divided into a sub-genre for subscription and free-to-air channels and a sub-genre for pay-per-view channels.

(g) *News genre*

A channel will be allocated a channel number in the News genre if its programming is predominantly news and/or current affairs.

(h) *Shopping genre*

A channel will be allocated a channel number in the Shopping genre if a substantial element of its programming is of a shopping or advertising nature.

In this context, a channel will have a “substantial element” of programming of the type described above, if:

- (i) fifty per cent or more of the programming on the channel is of a shopping or advertising nature; and/or
- (ii) more than 3 hours of programming of a shopping or advertising nature is broadcast on the channel per day between 10:00 and 24:00; and/or
- (iii) more than 9 hours of programming of a shopping or advertising nature is broadcast on the channel per day.

(i) *Religion genre*

A channel will be allocated a channel number in the Religion genre if its programming is predominantly related to religion.

(j) *International genre*

Subject to the exception set out below, a channel will be allocated a channel number in the International genre where 15% or more of the programming is foreign language programming; that is, programming that is not in English (or Welsh), or another language which is indigenous to the UK, whether sub-titled or not. Foreign language programming includes programmes that have originated in a language other than English (or Welsh), or another language which is indigenous to the UK, but have subsequently been dubbed into English.

In assessing the amount of foreign programming over a particular period, any single programme that comprises more than a minimal amount of content in any language other than English (or Welsh), or another language which is indigenous to the UK, will be regarded as foreign language programming.

However, a channel that includes more than 15% foreign language programming will not be listed in the International genre, but will instead be listed in the Movies genre, where the following circumstances apply:

- (i) the programming broadcast on the channel is predominantly movies and pre-view/promotional material relating to movies;
- (ii) all foreign language content on the channel is sub-titled in English (or Welsh), or another language which is indigenous to the UK, and such sub-titles appear by default and do not require viewer activation;
- (iii) all preview and other promotional material on the channel (other than film clips) is in English (or Welsh), or another language which is indigenous to the UK; and
- (iv) the broadcaster can satisfy Sky that the channel is predominantly directed at an audience that would not understand the foreign language content if it were not sub-titled in English (or, as the case may be, Welsh or another language which is indigenous to the UK).

In making its decision as to whether criteria (iv) applies, Sky would consider representations from the broadcaster, marketing materials in respect of the channel, the channel output and any publicly available information about the channel.

(k) *Adult genre*

A channel will be allocated a channel number in the Adult genre if, in Sky's reasonable opinion, the channel should be located in the Adult genre. The Adult genre is divided into two sub-genres:

*Adult sub-genre*

In determining whether a channel should be located in the Adult sub-genre Sky will have regard to the amount of and nature of any programming of an adult nature on the channel. In this context, programming of an adult nature will include any programming which features the depiction (particularly when that depiction is lascivious) of behaviour of a sexual or sexually suggestive nature, including the exhibition of breasts, genitals or sexual activity of any kind.

*Dating sub-genre*

A channel will be allocated a channel number in the Dating sub-genre if its programming is predominantly of a kind which offers viewers the opportunity to arrange a date or otherwise communicate with each other (e.g. via on-screen text messages), or of a kind which offers viewers the opportunity to communicate privately with the programme's presenters or others.

If Sky determines that an existing channel listed in another genre of the EPG is most appropriately located in the Adult genre, but there are no available channel numbers for additional channels in the Adult genre, because:

- (i) the genre is full; or
- (ii) Sky has reserved a channel number in the Adult genre for a channel on the HD/3D launch queue; or
- (iii) Sky has reserved a channel number in the Adult genre for a channel that is expected to move from another genre into the Adult genre following the transfer of an EPG slot in accordance with section 4.2 of this Listing Methodology, and in respect of which all relevant documentation to effect the transfer has been signed by all parties,

then Sky shall be entitled to suspend the EPG listing for the channel until either such a number becomes available, or until the content on the channel changes such that it is no longer most appropriately located in the Adult genre. Sky will consult with the broadcaster or distributor before exercising its right to suspend an EPG listing under this section.

Sky shall be entitled not to list in the "HD" section which is accessible in the EPG available to HD set top boxes, HD channels or 3D channels that are listed in the Adult genre.

### **2.3 HD section**

Within the EPG made available to most HD set top boxes there is an “HD” section which lists HD channels<sup>1</sup>. The HD section lists HD channels in the order in which they appear within the “All Channels” section of the relevant HD set top box.

As 3D channels are broadcast in an HD format, 3D channels will also be listed within the “HD” section.

### **2.4 +1 section**

Within the EPG made available to HD set top boxes there is a “+1” section, which lists Timeshift Channels (as defined in section 3.4 of this Listing Methodology). The +1 section lists Timeshift Channels in the order in which they appear within the “All Channels” section.

### **2.5 Radio section**

Sky's EPG contains a Radio section. A service will be allocated a channel number in the Radio section of the EPG if it comprises audio-only programming and is licensed as a radio station rather than as a television channel. A service will not currently be listed in this section if it comprises video programming or on-screen stills (other than via any interactive application which may be launched from the service).

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<sup>1</sup> The HD section does not appear within the EPG made available to certain older Sky+ HD set top boxes.

## **SECTION THREE: ALLOCATION OF CHANNEL NUMBERS**

### **3.1 Allocation of channel numbers**

Where a new service launches, or where it moves between genres, sub-genres or categories, the service will generally be allocated the next available channel number within the number range for that genre, sub-genre or category (that is, on a “*first-come, first-served*” basis). Accordingly, where a channel number is vacated by a service which has either ceased broadcasting or moved to another genre, the vacated channel number will not generally be re-allocated.

Sky may, from time to time, after consulting with broadcasters, fill any unallocated channel numbers within a number range for a genre or sub-genre by moving services listed below the unallocated channel numbers up the EPG, or move the services within a number range for a genre or sub-genre to a new number range. In so doing, Sky generally will retain the relative order of the services moved. In carrying out such a move Sky may, depending on the circumstances, allow broadcasters to elect to retain the existing channel number for their services, provided that they consent to other services listed below their service in the EPG prior to the move, and those launching into the number range for that genre or sub-genre subsequently, being listed above their service following the move.

There are exceptions to the “*first-come, first-served*” rule, and these are set out in the sub-sections entitled “Multiplexes”, “Listing of public service channels”, “Listing of Timeshift Channels in the Entertainment and Documentaries genres”, “Listing of Secondary Channels” and “Listing of channels in the International genre” below.

Generally, new channel numbers will be allocated no sooner than one week prior to channel launch.

Where it becomes apparent to Sky at any time that a service listed in the EPG would be more appropriately listed in a different genre, sub-genre, number range or category (in accordance with sections 2 and 3 of the Listing Methodology), Sky may, after consulting with the broadcaster (and, if applicable, distributor), move the service to the more appropriate genre, sub-genre, number range or category. This may happen as a result of changes to (i) the content on a service; (ii) the type and nature of a service; (iii) any services offered through that service; or (iv) Sky’s criteria for listing services in particular genres, sub-genres, number ranges or categories. References in this paragraph to “number range” are limited to the Timeshift Channel Number Range, the Secondary Channel Number Range, the number range for Secondary Channels in the Kids genre and the HD Simulcast Number Range as described in sections 3.4 and 3.6.

### **3.2 Multiplexes**

When a new television channel (referred to as the “principal” channel in this section 3.2) launches into or moves from elsewhere in the EPG into the Subscription & Free-to-air Sports sub-genre, Sky currently reserves an empty channel number below such channel.

Sky’s policy is to allocate these reserved channel numbers to “multiplexes” of the principal channel. A “multiplex” means a channel that either launches into the EPG or that moves into the Subscription & Free-to-air Sports sub-genre from elsewhere in the EPG and which is: (i) manifestly linked by theme to the principal channel (e.g. the principal channel and the “multiplex” share common branding); and (ii) broadcast by the broadcaster of the principal channel or by another broadcaster within the same majority owned corporate group as the broadcaster of the principal channel.

Sky will cease to reserve channel numbers for multiplexes in the Subscription & Free-to-air Sports sub-genre if Sky anticipates that it is likely to run out of room for new channels at the end of that sub-genre. In this case, Sky may also withdraw unallocated channel numbers which have been reserved for multiplexes by moving channels in the genre or sub-genre up to fill any vacant channel numbers.

The principles that Sky will apply to the trading of multiplex channels may be found in section 4 below.

### 3.3 Listing of public service channels

In this section, “public service channels” are those channels identified as such in accordance with section 310 of the Communications Act 2003, or, in the case of channels licensed by the Broadcasting Authority of Ireland, those channels which are regulated in an equivalent or similar manner in Ireland.

When allocating listings to public service channels, Sky seeks to give such channels an appropriate degree of prominence.

Each public service channel is different and, therefore, different analysis is applied in determining the appropriate channel number for each such channel. Nevertheless, Sky anticipates taking the following into account when allocating channel numbers to public service channels:

- (i) Sky’s obligation to provide appropriate prominence to public service channels pursuant to the Ofcom code of practice on electronic programme guides;
- (ii) the launch date or intended date of launch of the channel into the EPG;
- (iii) the nature of the programming on the channel;
- (iv) the extent of the broadcaster’s public service obligations in respect of the channel from time to time. For the avoidance of doubt, if the channel ceases to be a public service channel or the extent of the broadcaster’s public service obligations in respect of the channel change, then Sky may move the channel to a more appropriate channel number in accordance with this section 3, provided Sky first consults the broadcaster in question and provides the broadcaster with its reasons for the proposed move;
- (v) the channel numbers which are available from time to time: it would generally be unfair and disproportionate to permit a public service channel to take over an EPG channel number which has been allocated to another channel, however in some circumstances this may be unavoidable in order to ensure Sky’s compliance with specific requirements pursuant to the Ofcom code of practice on electronic programme guides. In the event that Sky intends to move one or more channels down the EPG in order to accommodate a public service channel, Sky will provide the broadcasters of such channels with reasonable prior notice of such intention; and
- (vi) the territory within the UK or Ireland in respect of which the broadcaster’s public service obligations extend. For example, it may be appropriate to allocate different channel numbers to a channel in different parts of the UK when its public service obligations extend only to part of the UK (provided that the broadcaster has acquired the necessary regionalisation services from Sky to enable this). Sky does not consider it appropriate to give prominence to the UK public service channels in the channel line-up(s) associated with Ireland, or to give Irish public service channels prominence in any of the channel line-up(s) associated with the UK.

Regional variants of a channel (including “out of area” regional variants) are listed in the same EPG genre. Out of area services may, however, be listed towards the end of the EPG rather than at the next available channel number.

Viewers with an access card should be able to view the correct regional variant of a public service channel (where regional variants exist) at the “primary” EPG listing for that channel (provided that the broadcaster has acquired the necessary regionalisation services from Sky to enable this).

### **3.4 Listing of Timeshift Channels in the Entertainment and Documentaries genres**

A “Timeshift Channel” means a channel that in Sky’s reasonable opinion is a timeshift of another channel already listed in the Sky EPG and includes, but is not limited to, a channel where: (i) its broadcast schedule is predominantly the same as another channel broadcasting on the Sky platform, offset by a set amount of time; or (ii) its broadcast schedule between the broadcast hours of 7:00pm and 12:00am (between 3:00pm and 6:00pm for channels listed in the Kids genre) is predominantly the same as another channel broadcasting on the Sky platform, offset by a set amount of time. Where a channel has a Timeshift variant, the “Principal Channel” is the non- Timeshift variant – to the extent that there is any doubt, the Principal Channel is the channel that is scheduled earlier. Timeshift Channels do not include channels that have been allocated to the Adult genre.

Where a Principal Channel in the Entertainment or Documentaries genre is listed within the number range 101-199, its Timeshift channel will be listed within the number range 201-299 (“Timeshift Channel Number Range”) and the channel number of the Timeshift Channel will correspond directly to the channel number of the Principal Channel. For example:

- (i) ITV at 103; ITV+1 at 203; and
- (ii) Sky One at 106; Sky One+1 at 206.

Where a Principal Channel in the Entertainment or Documentaries genre is not listed within the number range 101-199, but is instead listed in an “overspill” section, its Timeshift Channel will be listed at the next available channel number within the number range for the overspill section, on a first come first served basis.

Timeshift Channels listed in all genres other than the Documentaries and Entertainment genres will be allocated a channel number on a first come first served basis, as described in section 3.1.

If a Timeshift Channel that is listed within the Timeshift Channel Number Range ceases to be a Timeshift Channel, it will be allocated a new channel number (and, if appropriate, new genre) in accordance with this Listing Methodology.

### **3.5 HD Channel Swap**

In order to help viewers more easily locate HD television channels within the EPG, where an SD television channel has an HD Simulcast, Sky swaps the channels, where applicable, such that the HD Simulcast is listed at the higher EPG position (“HD Channel Swap”), unless the broadcaster (and, in the case of pay-TV HD Simulcasts, the distributor) exercises an opt-out, as further described below. Following the application of HD Channel Swap (where applicable) the channel at the lower position in the EPG will generally be listed in a separate number range in the EPG (see section 3.6 of the Listing Methodology).

HD Channel Swap is applied in the version of the EPG line-up made available to viewers in residential premises, retail premises and commercial premises with an HD set top box<sup>2</sup>.

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<sup>2</sup> For technical reasons it will not be possible to implement this HD Channel Swap in respect of HD Simulcasts where either the HD Simulcast and/or the SD counterpart has a complex regionalisation configuration. For such channels, HD Channel Swap will be applied in the version of the EPG line-up made available to viewers in residential premises and retail premises with a subscription to one or more HD television channels distributed by Sky

For pay-TV HD Simulcasts<sup>3</sup> sold in a different pay-TV package to their SD counterpart (or where the SD counterpart is made available on a non-pay basis):

- (a) HD Channel Swap will be applied in the version of the EPG line-up made available to those viewers with an entitlement to view that HD Simulcast;
- (b) pay-TV distributors are required to inform Sky, via their customer management systems, each time a viewer becomes entitled or disentitled to view such a pay-TV HD Simulcast distributed by them. Further details of the steps required to implement HD Channel Swap in accordance with this section 3.5(b) are provided to affected pay-TV distributors as required.

#### HD Simulcasts launching into the EPG

In the event that a channel launches into the EPG as an HD Simulcast, HD Channel Swap will be applied with effect from the launch of that channel, unless the broadcaster (and, if applicable, the distributor) exercises an opt-out (as set out below).

The distributor of a pay-TV HD Simulcast, which will be sold in a different pay-TV package to its SD counterpart on launch must take the necessary steps (i.e. to develop their customer management system) to implement HD Channel Swap in accordance with section 3.5(b) above, or exercise an opt-out (where applicable), by the launch date for that channel, otherwise HD Channel Swap will be applied to the channel for viewers in residential premises, commercial premises and retail premises with an HD set top box.

#### Evolving into or ceasing to be an HD Simulcast

If a channel evolves into an HD Simulcast (following a material change to the content on the channel) Sky will provide the broadcaster (and, if applicable, the distributor) with at least 1 week's notice of the date upon which HD Channel Swap will take effect upon the affected channels.

If a broadcaster proposes to evolve a channel into a pay-TV HD Simulcast which is sold in a different pay-TV package to its SD counterpart, the distributor of that channel must take the necessary steps (i.e. to develop their customer management system) in order to implement HD Channel Swap as described at (b) above, or exercise an opt-out, prior to the channel evolving into such a pay-TV HD Simulcast, otherwise HD Channel Swap will be applied to the channel for viewers in residential premises, commercial premises and retail premises with an HD set top box.

In the event that a channel ceases to be an HD Simulcast (following a material change to the content on the channel), Sky will provide the broadcaster and/or distributor with no less than 2 working days' notice of the date upon which HD Channel Swap will be removed from the affected channels. Upon removal of HD Channel Swap, the channel listed in the Secondary Channel Number Range will be allocated a new EPG number in accordance with this Listing Methodology.

For the avoidance of doubt, if following the application of HD Channel Swap the broadcaster ceases to broadcast either the SD or HD version of the channel then HD Channel Swap will be removed from the affected channels and the remaining channel will be listed in the EPG slot that had been occupied by the Principal Channel (i.e. higher relative position in the EPG).

#### Opt-out from HD Channel Swap

Broadcasters of channels that meet the following criteria are able to exercise an opt-out from HD Channel Swap, such that HD Simulcasts are not swapped with their SD counterparts:

- (i) channels which are regionalised and which were listed in the EPG on 9 August 2017 may opt-out of HD Channel Swap, but only in regions where the HD version of the channel was not an exact simulcast of the SD version as at 9 August 2017 (for the purposes of this opt-out, an HD version of a channel that broadcasts different

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<sup>3</sup> For these purposes, distributors of pay-TV HD Simulcasts are required to inform Sky in advance of any changes to the way in which they package their pay-TV HD Simulcasts.

advertisements or regional programming will not be an exact simulcast). This opt-out only applies in respect of a particular region for so long as the SD and HD versions of the channel available in that region: (i) are not exact simulcasts; or (ii) in Sky's reasonable opinion are not targeted at the same regional audience<sup>4</sup> (as described below);

- (ii) channels which are regionalised, where the SD and/or HD variant launched into the EPG after 9 August 2017, may opt-out of HD Channel Swap, but only in regions where in Sky's reasonable opinion the SD variant of the channel and the HD Simulcast are not targeted at the same regional audience, based on the following criteria: (i) the descriptions of the channels in the relevant broadcast licences; (ii) the channel names and descriptions in Sky's EPG; (iii) the regions in which the channels are made available; (iv) the nature of regional programming on the channels; (v) the nature of advertising on the channels; (vi) the marketing of the channels (vii) representations provided by the broadcaster to Sky; and (viii) any other information that has been provided by the broadcaster to Sky or that is publically available; and
- (iii) pay-TV HD Simulcasts which are distributed to commercial premises may opt-out of HD Channel Swap, but only in respect of the listing of the channels in the EPG line-up made available to commercial premises.

In the event that a broadcaster or distributor (as appropriate) wishes to exercise an opt-out, the broadcaster/distributor must notify Sky of its wishes (in accordance with the procedure for giving notices under its EPG Agreement) prior to its channels first being swapped.

Once HD Channel Swap has been implemented in respect of an HD Simulcast, the broadcaster of that channel will no longer have the option to exercise an opt-out in respect of that channel for so long as the channel remains an HD Simulcast of another channel, and the HD Simulcast and its SD counterpart remain listed in the EPG. In the case of channels that are regionalised, the broadcaster of that channel will no longer have the option to opt-out of HD Channel Swap for so long as the HD Simulcast and its SD counterpart have not undergone a material change to their content such that the channels, in Sky's reasonable opinion, are no longer targeted at the same regional audience.

### Definitions

In this section, "HD Simulcast" means a television channel which meets the minimum programming and technical requirements for HD channels as specified in section 1 of this Listing Methodology and which (a) broadcasts identical content to that which is broadcast on an SD television channel broadcast by the same broadcaster or by another broadcaster within the same wholly-owned corporate group, and (b) broadcasts such content at the same time that it is broadcast on the SD television channel, except that the HD Simulcast may broadcast different advertisements, promotions, interstitials, on-screen graphics and/or regional programming to those which are broadcast on the SD television channel.

In this section, "residential premises" means a place of domestic residence<sup>5</sup>, "retail premises" means a retail outlet authorised to retail Sky set top boxes to the public and "commercial premises" means any premises which is not a residential or retail premises e.g. a pub, hotel or club.

## **3.6 Listing of Secondary Channels**

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<sup>4</sup> Broadcasters will no longer have the option to opt-out of HD Channel Swap where the HD Simulcast and its SD counterpart undergo a material change to their content such that the channels, in Sky's reasonable opinion, are targeted at the same regional audience.

<sup>5</sup> Except for domestic residences to which access to any channel is provided by means of a satellite master antennae television system or equivalent system.

Where an SD channel has an HD Simulcast, then following the application of HD Channel Swap (where applicable):

- (i) the “Principal Channel” is the channel listed at the higher relative position in the EPG; and
- (ii) the “Secondary Channel” is the channel listed at the lower relative position in the EPG. Secondary Channels do not include: (i) channels that have been allocated to the Adult genre; (ii) public service channels in respect of which the broadcaster has opted out of HD Channel Swap in accordance with section 3.5 of this Listing Methodology; or (iii) public service channels where HD Channel Swap has been applied (and the broadcaster had a right to exercise an opt-out but did not exercise the opt-out) and the SD version of the channel broadcasts different regional programming to the HD version of the channel.

In order to help viewers more easily locate content within the EPG, Secondary Channels are listed in a separate number range in the EPG (“Secondary Channel Number Range”), with the exceptions of:

- (i) Secondary Channels in the Kids genre, which are listed in a separate number range at the end of the Kids genre; and
- (ii) Secondary Channels listed in the Entertainment or Documentaries genre in respect of which the broadcaster has opted out of HD Channel Swap in accordance with sections 3.5(i) and (ii), which are listed in a separate number range within the EPG (“HD Simulcast Number Range”).

The order of the Secondary Channels in the Secondary Channel Number Range, number range for Secondary Channels in the Kids genre and the HD Simulcast Number Range is such that they reflect, where possible, the relative order of their Principal Channels.

Accordingly, channel numbers will be allocated to new Secondary Channels in the following manner (including where a new Secondary Channel launches or an existing channel evolves into or is substituted by a new Secondary Channel):

- (i) where there is a vacant channel number within the appropriate number range at the same relative position as the Principal Channel, the Secondary Channel will be allocated that channel number; and
- (ii) where there is not a vacant channel number within the appropriate number range at the same relative position as the Principal Channel, the Secondary Channel will be allocated the next highest available number within that number range. Sky will not displace another channel in order to allocate a channel number to a Secondary Channel.

Over time the order of the channels listed in the Secondary Channel number range, the number range for Secondary Channels in the Kids genre and the HD Simulcast Number Range may cease to reflect the order of their Principal Channels. Therefore, Sky reserves the right from time to time to reorder the channels in the Secondary Channel number range, the number range for Secondary Channels in the Kids genre and the HD Simulcast Number Range such that Secondary Channels are listed in the same order as their Principal Channels.

If a Secondary Channel ceases to be a Secondary Channel following the effective date of this Listing Methodology, it will be allocated a new EPG number (and, if appropriate, new genre) in accordance with this Listing Methodology.

### **3.7 Listing of channels in the International genre**

Sky groups the channels in the International genre by language. As at the date of this Listing Methodology, Sky has reserved number ranges within the number range for the International genre for the following languages: Hindi, Urdu, Punjabi, Bengali and Arabic. Sky has also reserved a number range for "Other languages (i.e. languages without a dedicated language number range, usually where there is only one channel listed in the EPG in that language). When allocating a new channel number for a channel in the International genre, Sky will allocate the next available number in the appropriate number range on a first come first served basis.

## **SECTION FOUR: LAUNCHING A CHANNEL / TRANSFERRING AN EPG LISTING**

### **4.1 Introduction**

There are a number of ways in which a broadcaster can launch a channel into the EPG:

- (i) First, by acquiring the rights and obligations associated with an EPG listing from an existing broadcaster on the Sky platform. See section 4.2 below for further detail;
- (ii) Second, for HD channels or 3D channels, by applying to Sky for a listing via the HD/3D launch queue. See section 4.3 below for further detail;
- (iii) Third, for Local TV simulcasts, by applying to Sky for a listing via the Local TV launch queue. See section 4.4 below for further detail; and
- (iv) Fourth, for radio stations, by applying to Sky for a listing via the radio launch queue. See section 4.5 below for further detail.

Sky will also facilitate the launch of service variants, subject to certain conditions and restrictions. See section 4.6 below for further detail.

### **4.2 Acquiring the rights and obligations associated with an EPG Listing from an existing broadcaster**

Sky will allow a broadcaster to transfer its right to have a service listed in the EPG, subject to its contractual rights and to the then current Listing Methodology. This section 4.2 sets out Sky's current policy with regards to transferring EPG slots. It is recommended that broadcasters review this section 4.2 prior to contacting Sky to request Sky's consent to the transfer.

#### **4.2.1 Notice and other conditions**

Where a broadcaster wishes to transfer its contractual right to have a service listed in the EPG, the broadcaster is required to give notice to Sky of such intent and to request Sky's consent to the transfer. While the EPG Services Agreement requires broadcasters to request Sky's consent to a transfer 28 days prior to the proposed transfer date, the time taken to complete an EPG transfer may vary depending on the specific circumstances of the transfer. In certain circumstances, it may be possible to shorten the amount of time required to transfer an EPG listing, especially where the transferor and the transferee promptly provide Sky with all relevant information and arrange execution of the relevant documentation in a timely manner. Broadcasters requesting a transfer in a period of less than 28 days are encouraged to provide Sky with reasons why the notice period should be reduced/waived and to provide Sky with supporting documentation showing the necessity for such reduction/waiver. Broadcasters wishing to have the notice period reduced/waived should also ensure that all information and documentation requested by Sky is provided in a timely fashion.

Broadcasters who require that Sky makes operational changes as a consequence of an EPG transfer should note the indicative timelines set out in section 4.2.9(e) below.

As places in the HD/3D launch queue, Local TV launch queue and radio launch queue are not transferable, consent to transfer an HD/3D channel listing, a Local TV simulcast listing, or a radio station listing should not be requested until the channel has been launched.

Further, Sky will not permit a channel that launched into the EPG via the HD/3D launch queue to be substituted by a channel broadcast in SD or permit a channel that was launched into the EPG via the Local TV launch queue to be substituted by a channel that is not a Local TV simulcast, or permit a station launched into the EPG via the radio launch queue to be substituted by a service that is not a radio station.

In addition, EPG Services Agreements generally require broadcasters to notify Sky of a change of control within 28 days after a change of control taking effect.

As further detailed below, Sky also requires notice where a broadcaster or distributor wishes to change the name or description for a service, and where one licensed service is to be substituted with another.

#### **4.2.2 Substitution of one service with another**

Subject to sections 4.2.6 and 4.2.7, Sky agrees to allow broadcasters or distributors to substitute one service in the EPG with another service broadcast under a different broadcasting licence, for so long as this version of the Listing Methodology remains in force. Sky will permit broadcasters or distributors to substitute one television channel with another or one radio station with another. However, substitutions of different types of services, such as a radio station with a television channel, will not be permitted. Further, Sky will not permit a channel that launched into the EPG via the HD/3D launch queue to be substituted by a channel broadcast in SD or permit a channel that launched into the EPG via the Local TV launch queue to be substituted by a channel that is not a Local TV simulcast.

A broadcaster or distributor wishing to substitute one service with another must provide Sky with a copy of the replacement broadcasting licence. Where the services are broadcast by the same broadcaster, Sky will usually require the broadcaster or the distributor of the service to enter into an agreement amending the existing EPG Services Agreement to reflect the change. Where a substitution occurs at the same time as a transfer of the right to have a service listed in the EPG from one broadcaster or distributor to another, such amendments can be provided for in the legal documentation effecting the transfer. Sky advises broadcasters wishing to substitute one service with another that it may take around 28 days from the date of the request to the actual date of substitution. In certain circumstances, it may be possible to shorten the amount of time required, especially where the broadcaster or distributor promptly provide Sky with all relevant information and arrange execution of the relevant documentation in a timely manner.

Where the entity which has the agreement with Sky for EPG services is the distributor of the service (rather than the broadcaster of the service), Sky will require the agreement of both the broadcaster and the distributor before effecting any substitution of the type described in this section 4.2.3.

#### **4.2.3 Swapping EPG channel numbers**

Subject to sections 4.2.6, 4.2.7 and 4.2.8, Sky will allow any two services in the same genre / sub- genre to swap channel numbers, whether they are broadcast by the same or different broadcasters.

Sky will usually require the broadcaster(s) to enter into an agreement amending the existing EPG Service Agreement(s) to reflect the change. Sky advises that such swaps may take around 28 days from the date of the request to the actual date of the swap. In certain circumstances, it may be possible to shorten the amount of time required to complete the swap, especially where the broadcaster(s) provide to Sky all relevant information and arrange execution of the relevant documentation in a timely manner.

Where the entity which has the agreement with Sky for EPG services is the distributor of the service (rather than the broadcaster of the service), Sky will require the agreement of both the broadcaster and the distributor before effecting any swap of the type described in this section 4.2.3.

#### **4.2.4 “Partial” transfers**

The Sky EPG allows for different channels to be listed at the same EPG number in different regions. Sky recognises that an existing broadcaster may wish to transfer its contractual right to have a service listed in the EPG to a third party only in respect of a listing in a given region(s). Following such

transfer, the existing broadcaster's channel would continue to be listed only in the EPG in the regions which were not subject to the transfer; the third party broadcaster's channel (in respect of which that broadcaster must hold its own, separate broadcast licence) would only be listed in the EPG in the region(s) which were subject to the transfer.

The same principle could be applied to transfer the right to be listed in the EPG versions available to particular types of viewers (e.g. those in residential or commercial premises).

Sky will not unreasonably withhold its consent to a proposed "partial" transfer of an EPG listing as described above. However, Sky will only provide its consent to such transfer provided that:

- (i) the requirements set out at section 4.2.2 have been met;
- (ii) the transfer does not involve a channel that launched into the EPG via the HD/3D launch queue being substituted by a channel broadcast in SD or a channel that was launched into the EPG via the Local TV launch queue being substituted by a non-Local TV channel, or a station that launched into the EPG via the radio launch queue being substituted by a service that is not a radio station; and
- (iii) Sky is satisfied that such transfer will have minimal impact on set top box memory/capacity constraints.

Partial transfers of this type will be carried out in a strictly controlled manner to minimise their impact. Sky will cease permitting transfers of the nature described in this section 4.2.4 if it considers that they pose an issue for set top box memory or other capacity constraints.

The existing broadcaster and the third party broadcaster would each need to acquire regionalisation services from Sky in order to enable such arrangements. Sky would generally expect that, following the transfer, the two channels will be listed in the same EPG genre and will share an EPG channel number. However, where a "public service channel" (as defined in section 3.3 of the Listing Methodology), which has acquired its channel number by virtue of being a public service channel enters into a partial transfer of its EPG listing with a broadcaster of a channel which is not a public service channel, Sky shall be entitled to move the non-public service channel to the bottom of the relevant genre or sub-genre in the regions in which it is listed.

#### **4.2.5 Move to another EPG genre, sub-genre or category**

Where, following any type of transaction described in sections 4.2.1, 4.2.2, 4.2.3 or 4.2.4, the content of a service changes such that it is no longer most appropriately listed in its existing genre, sub-genre, number range or category, Sky is entitled to move the service to the most appropriate genre, sub-genre, number range or category in accordance with section 3 of the Listing Methodology (see sections 2 and 3 of the Listing Methodology for further information on the categorisation of channels within the EPG). Subject to Sky's other rights to move services within the EPG and to section 4.2.7 below, if a broadcaster or distributor acquires an EPG listing from an existing broadcaster or distributor and continues to broadcast a service most appropriately listed in the same genre, sub genre, number range or category as the EPG listing acquired, it will retain the acquired EPG channel number. References in this paragraph to "number range" are limited to the Timeshift Channel Number Range, the Secondary Channel Number Range, the number range for Secondary Channels in the Kids genre and the HD Simulcast Number Range as described in sections 3.4 and 3.6.

#### **4.2.6 Multiplexes**

If a channel in such a genre or sub-genre acquired its position in the EPG on or after 1 January 2008 by virtue of being a multiplex channel (in accordance with section 3.2), then:

- (i) if multiplex channel ceases to meet the requirements for multiplex channels set out in section 3.2, then Sky shall be entitled to move such channel to the bottom of the relevant genre or sub-genre;
- (ii) Sky will allow the broadcaster to substitute either the principal channel or multiplex channel with a different licensed channel only if, following such substitution, the channel occupying the multiplex EPG position continues to be a multiplex of the channel occupying the principal channel position; and
- (iii) Sky will allow the broadcaster to swap the channel numbers of the principal channel and/or the multiplex channel with the channel numbers of other channels only if, following such a swap, the channel occupying the multiplex EPG position continues to be a multiplex of the channel occupying the principal channel position.

Any channel which acquired a position in the EPG by virtue of being a multiplex prior to 1 January 2008 shall not be subject to the rules set out above; the EPG listing for such a channel may be traded in the same way as that of any other service.

The rules in this section 4.2.6 shall only apply in the Subscription & Free-to-air Sports sub-genre for so long as Sky continues to reserve channel numbers for multiplexes, and allocate channel numbers to multiplexes, in such sub-genre.

#### **4.2.7 Public service channels and Local TV simulcasts**

It may not in all cases be fair to enable channel numbers which have been allocated to particular public service channels pursuant to section 3.3 of the Listing Methodology to be transferred to other channels. Accordingly, if a service has been allocated a channel number in accordance with section 3.3 of the Listing Methodology by virtue of it being a public service channel (as defined in section 3.3 of the Listing Methodology), and the broadcaster of the channel enters into any transaction of the type described in sections 4.2.1 to 4.2.4 (inclusive) which would result in a channel which is not a public service channel occupying the channel number, then Sky shall be entitled to move such channel to the bottom of the relevant genre or sub-genre. If, instead, the channel which would occupy the relevant channel number following such a transaction is another public service channel, Sky will consider whether, in light of the criteria in section 3.3 of the Listing Methodology and Sky's obligation to give the service an appropriate degree of prominence, the channel is most appropriately listed at that channel number or elsewhere, and Sky shall be entitled to move the channel to elsewhere in the EPG if it deems such a move appropriate.

Sky will not provide consent to any transaction of the type described in sections 4.2.1 to 4.2.4 (inclusive) which Sky considers may be a breach of its obligation to provide appropriate prominence to public service channels pursuant to the Ofcom Code of practice on electronic programme guides.

If the broadcaster of either (i) a Local TV simulcast (as defined in section 4.4 of the Listing Methodology) which has launched into the EPG via the Local TV launch queue or (ii) a Local TV simulcast which has subsequently replaced that channel in the EPG from time to time following a transfer of the rights to have such channel listed in the EPG, proposes to enter into any transaction of the type described in sections 4.2.1 to 4.2.3 (inclusive), then Sky will only consent to such transaction where:

- (i) in the case of a transfer or service substitution, the replacement channel is a Local TV simulcast in respect of the same Local TV location as the outgoing Local TV simulcast; and

- (ii) in the case of a channel number swap, both channels which are subject to the swap are Local TV simulcasts and the swap is only proposed to take place within the region(s) in which both channels are listed.

Local TV simulcasts are not permitted to enter into a “partial” transfer as described at section 4.2.4 of the Listing Methodology.

#### **4.2.8 Number ranges**

##### *Timeshift Channel Number Range*

As the channel numbers of channels in the Timeshift Channel Number Range (201-299) will correspond directly to the channel number of their Principal Channel, the following rules will apply:

- (i) Where a Principal Channel swaps channel number in accordance with section 4.2.3, and that Principal Channel has a Timeshift Channel listed in the Timeshift Channel Number Range, the Timeshift Channel will be reallocated a new channel number in accordance with the channel number allocation process set out in sections 3.1 or 3.4 (as appropriate);
- (ii) Sky will not consent to any request to swap channel numbers listed in the Timeshift Channel Number Range in accordance with section 4.2.3 independent of a swap involving two Principal Channels listed within the number range 101-199; and
- (iii) Where a Timeshift Channel listed in the Timeshift Channel Number Range evolves into or is substituted by a new Timeshift Channel, the new Timeshift Channel will be reallocated a new channel number in accordance with the channel number allocation process set out in sections 3.1 or 3.4 (as appropriate).

For the avoidance of doubt, the above rules do not apply to any request for Timeshift Channels to swap channel numbers within the overspill section for channels in the Entertainment and Documentaries genres.

##### *Secondary Channel Number Range / Number range for Secondary Channels in the Kids genre / HD Simulcast Number Range*

As the order of the channels listed in the Secondary Channel number range, the number range for Secondary Channels in the Kids genre and the HD Simulcast Number Range is intended to reflect the order of their Principal Channels, the following rules will apply:

- (i) Where a Principal Channel swaps channel number in accordance with section 4.2.3, and that Principal Channel has a Secondary Channel, the Secondary Channel will be reallocated a new channel number in accordance with the channel number allocation process set out in section 3.6;
- (ii) Sky will not consent to any request to swap channel numbers within the Secondary Channel number range, the number range for Secondary Channels in the Kids genre or the HD Simulcast Number Range in accordance with section 4.2.3 independent of a swap involving two Principal Channels; and
- (iii) Where a Secondary Channel evolves into or is substituted by a new Secondary Channel, the new Secondary Channel will be reallocated a new channel number in accordance with the channel number allocation process set out in section 3.6.

#### **4.2.9 Practical requirements for the transfer of EPG listings**

Set out below is a summary of the various practical requirements associated with the transfer of the right to have a service listed in the EPG.

For the purposes of this section 4.2.9:

- (i) the broadcaster/distributor with rights to an EPG listing is the “Transferor”; and
- (ii) the broadcaster/distributor proposing to acquire the EPG listing from the Transferor is the “Transferee”.

##### *(a) Consent to transfer*

Prior to transferring its EPG listing, the Transferor must first send Sky a written request to transfer the listing to the Transferee. Sky will generally provide its consent to the proposed transfer, provided the following conditions have been met:

- (i) Sky has been provided with licence details for the service to be broadcast by the Transferee, to include either: (a) written evidence of any necessary regulatory consents for the transfer of the Transferor’s existing licence(s) to the Transferee; or (b) a copy of the Transferee’s own, separate broadcast licence(s) in respect of the channel it proposes to launch following completion of the transfer. See paragraph (b) below for further detail;
- (ii) there are no subsisting breaches of the EPG Agreement or any other agreement for platform services (namely, EPG, conditional access or access control services) held by the Transferee and, specifically, there are no charges overdue in respect of such services;
- (iii) all invoices issued to the Transferor in respect of the EPG listing, whether overdue or not, are paid in full. See paragraph (c) below for further detail;
- (iv) if required, the Transferee has paid Sky a deposit in respect of future charges payable under the EPG Services Agreement; and
- (v) the Transferor has paid to Sky the transfer fee in accordance with paragraph (d) below.

##### *(b) Broadcast licence(s)*

Where the Transferor intends to transfer its broadcast licence(s) to the Transferee, the date of such transfer should coincide with the date of the transfer of the EPG listing. In the event that the Transferor transfers its broadcast licence(s) prior to the transfer of the EPG listing, it would cease to have a licence for the service listed in the EPG pursuant to its EPG Services Agreement, which entitles Sky to terminate such agreement with immediate effect.

##### *(c) Payment of invoices*

Sky invoices in advance for EPG services. Therefore, it is likely that some of the invoices payable by the Transferor in respect of the EPG listing will relate to periods following the effective date of the transfer. Sky will not refund to the Transferor any sums which relate to periods following the effective date of the transfer. The Transferor and the Transferee will need to reconcile these payments between themselves if they so wish.

Where the Transferee pays any EPG fees on behalf of the Transferor prior to the date of the transfer, it does so as agent for the Transferor. Sky will not reimburse the Transferee for such

payments in the event that the transfer does not occur. The parties will need to reconcile such payments between themselves if they so wish.

*(d) Transfer fee*

Under the EPG Services Agreement, Sky may require the payment of its reasonable costs in preparing to effect a transfer of an EPG listing. Sky has determined that its reasonable costs for such work amount to at least £5,000 (plus VAT). Sky requires the Transferor to pay £5,000 (plus VAT) to Sky prior to Sky undertaking any work relating to the transfer of the EPG listing. For the avoidance of doubt, where the proposed transfer involves a swap of EPG listings between different broadcasters/distributors (in accordance with section 4.2.3) then for the purposes of this section 4.2.8(d) the Transferor will usually be the broadcaster/distributor that is transferring the EPG listing in the higher relative position in the EPG.

If the transfer of the EPG listing does not proceed, Sky may make a partial or total refund of the transfer fee to the Transferor if it has not incurred such costs. Sky will generally consider that it has incurred such costs if it has sent any relevant documentation (in particular legal documentation) for the transfer to the parties.

*(e) Operational changes*

The Transferee may require Sky to carry out one or more of the following operational changes in connection with the transfer of the EPG listing:

- (i) change of satellite capacity provider;
- (ii) change of EPG scheduling provider; or
- (iii) change of channel name and/or description.

Sky requires a period of time in order to carry out these operational changes and broadcasters should be aware that if the Transferee requires that the changes happen simultaneously with the transfer then it may be necessary to delay the date of the transfer in order to accommodate the changes. An indicative timeline for each type of operational change is set out below. Sky may also advise the Transferee of interim operational milestones that the Transferee will be required to meet in order to carry out the operational changes detailed below. Broadcasters should note that it may not be possible to carry out the operational changes described below on a Friday, Saturday, Sunday or public holiday or during a platform freeze (details of the annual platform freeze are set out in section 6.2 below). If any operational changes are required, Sky may arrange a technical conference call to discuss these with the Transferee.

*Change of satellite capacity provider*

Sky generally requires at least **4 weeks'** notice where the Transferee intends to use a different satellite capacity provider or make any technical changes to the satellite capacity currently being used by the Transferor. Such notice period shall commence from receipt by Sky of an engineering set-up form from the Transferee's satellite capacity provider. If the notice period overlaps with a platform freeze, the notice period shall stop at the start of the platform freeze and shall not recommence until the end of the platform freeze.

*Change of EPG scheduling provider*

Sky generally requires at least **4 weeks'** notice where the Transferee intends to use a different scheduling provider to that currently being used by the Transferor. Such notice period shall commence on the first working day after the Transferee confirms its new schedule provider.

*Change of channel name and/or description*

Where the Transferee wishes to change the channel name or description, the Transferee will need to obtain Sky's prior consent to the new name. Sky will take a number of factors into account in deciding whether or not to consent to a name change. By way of guidance, Sky only anticipates consenting to a name change where the proposed name:

- (i) only contains the name of the channel as it appears on screen (for example in any idents, overlays and promotions) or within any marketing materials;
- (ii) matches or closely matches the name that appears on the relevant broadcasting licence; and
- (iii) uses mixed case or title case format.

Sky shall consent or decline a request for a name change within 10 working days and make such change (where consent is granted) within 5 days. Accordingly, if the Transferee wishes to change the channel name or description as part of the EPG listings transfer, it should provide the proposed new name/description to Sky at least two weeks in advance of the proposed transfer date.

*(f) Change of EPG schedules*

If the Transferee plans to change the broadcast schedule of the channel following transfer of the EPG listing, it will need to download new EPG schedules into Sky's systems. EPG schedules must be downloaded into Sky's systems at least **2 weeks** prior to broadcast. The Transferee may download new schedules prior to the effective date of the transfer of the EPG listing; however, the Transferee should not download new schedules for the channel until either the Transferor has obtained the relevant regulator's consent to transfer its existing licence to the Transferee or the Transferee has obtained its own separate broadcast licence for the channel, as there is a risk that the Transferee will not have received the relevant documentation by the time the new schedules go live.

*(g) Documentation*

*Transfer information form*

Sky requires certain information in order to prepare both the legal documentation to effect the transfer and to arrange for any operational changes. Therefore, Sky will require the Transferor to complete a standard form (as amended from time to time) to provide Sky with such information.

*Non-disclosure agreement*

Following receipt of the completed transfer information form, Sky will usually require the Transferee to enter into a non-disclosure agreement with Sky if the Transferee has not already signed such a non-disclosure agreement with Sky. Sky will provide a copy of the non-disclosure agreement to the Transferee, which must be signed prior to Sky entering into any discussions with the Transferee about the proposed transfer.

*Legal documentation to effect the transfer*

Following receipt of the completed transfer information form and, if required, a non-disclosure agreement signed by the Transferee, Sky will send the draft transfer documentation to the Transferor and Transferee for review.

Sky's standard practice for transferring an EPG listing from one broadcaster to another is to terminate the right of the Transferor to have a service listed in the EPG and to enter into a new

EPG Services Agreement (on Sky's then current terms) with the Transferee in respect of the EPG listing.

Once the transfer documentation has been agreed by the Transferor and Transferee, and the conditions specified at paragraph 8(a) above have been satisfied, Sky will issue execution versions of the documentation for signature.

(h) *Transfers must be completed within six (6) months*

A transfer must be completed within six (6) months of Transferor's first written request for such. Where a transfer does not occur within such period, the Transferor will need to re-notify Sky of its wish to transfer the EPG listing if the parties still wish to transfer the EPG listing and to follow the standard process for the transfer of an EPG listing, generally including the payment of a fresh transfer fee.

#### **4.2.10 Deposit policy**

A broadcaster or distributor may be required to provide a deposit for the charges payable under their EPG Services Agreement. Sky's deposit policy from time to time is set out at section 5 of the Listing Methodology.

### **4.3 HD/3D launch queue**

#### **4.3.1 Adding a channel to the HD/3D launch queue**

In order for a channel to be added to the HD/3D launch queue, a broadcaster of an HD channel or a 3D channel or person appointed by the broadcaster (including a distributor) must send the following documentation via email to [channels.operations@sky.uk](mailto:channels.operations@sky.uk):

- (i) the name of the proposed HD channel and/or the 3D channel;
- (ii) the broadcaster and (where applicable) the distributor of the proposed HD channel and/or the 3D channel;
- (iii) the name and contact details of persons representing the broadcaster and (where applicable) the distributor of the proposed HD channel and/or the 3D channel;
- (iv) a copy of the broadcasting licence(s) (or equivalent authorisation(s)) permitting the broadcast of the proposed HD channel and/or the 3D channel by satellite in the region where the channel will be available via the EPG;
- (v) the registered company number for the broadcaster, if it is incorporated in England and Wales, and a copy of the certificate of incorporation, if it is not incorporated in England and Wales; and
- (vi) sample schedules for 7 days' programming for the proposed HD channel and/or the 3D channel.

Any application made by a broadcaster or distributor to add a channel to the HD/3D launch queue will be disregarded if:

- (i) that broadcaster or distributor has any overdue debts to Sky for EPG, conditional access and/or access control services; or
- (ii) it is made other than via email to the nominated address.

In the event that a broadcaster or distributor makes an application that is disregarded for any of the aforementioned reasons, Sky shall notify the broadcaster or distributor as soon as reasonably practicable and in any case within 5 working days that the application has been disregarded.

Should the broadcaster or distributor wish to make a fresh application, it may do so, for so long as the HD launch queue remains open. Sky shall consider that application afresh and in accordance with the rules set out in the then current Listing Methodology.

Sky will notify a broadcaster or distributor as soon as reasonably practicable and in any case within 5 working days of receipt of a valid and complete application to add a channel(s) to the HD/3D launch queue that its channel(s) has/have been added to the HD/3D launch queue.

Channels will be added to the HD/3D launch queue in the order in which valid and complete applications are received by Sky.

Sky will not launch a channel where a launch poses an unacceptable risk to the stability of the Sky digital satellite platform.

#### **4.3.2 Allocation of launch dates and timelines for launch**

Sky will contact the broadcaster or distributor of a channel in the HD/3D launch queue with a proposed launch date for its service no less than 16 weeks prior to such date. The broadcaster or distributor must confirm their acceptance of the intended launch date by (i) signing a standard acceptance form and (ii) completing and returning to Sky a standard information form, within a specified deadline.

Sky will not allocate EPG launch dates which fall during the annual platform freeze (see section 6.2 for further detail of the annual platform freeze).

If the broadcaster or distributor is required to pay a deposit in accordance with Sky's deposit policy from time to time (see section 5 of the Listing Methodology), the broadcaster or distributor must also pay such deposit and sign a deposit agreement within the specified deadline.

If a broadcaster or distributor does not by the specified deadline (i) sign the standard acceptance form; (ii) complete and return to Sky the standard information form; and (iii) pay the deposit (where required), the service will be removed from the HD/3D launch queue.

Once a broadcaster or distributor has accepted an EPG launch date, Sky will inform the broadcaster or distributor of the operational deadlines that must be met in order to ensure the launch of their service into the EPG on such date. If a broadcaster or distributor:

- (i) does not comply with such operational deadlines; or
- (ii) does not launch its service into the EPG within 7 days of the intended launch date;  
or

- (iii) has not provided sufficient funds to clear any debts owed by the broadcaster or distributor to Sky as at the date of the proposed launch for EPG, conditional access and/or access control services,

it will forfeit its launch date, and the affected service will be removed from the HD/3D launch queue.

The broadcaster or distributor of the service must enter into an EPG Services Agreement with Sky before the intended launch date.

#### **4.3.3 Compliance with rules applying to HD/3D channels**

Channels that launch into the EPG in accordance with section 4.3 of this Listing Methodology must meet the minimum programming and technical requirements as set out in section 1.

#### **4.4 Local TV launch queue**

##### **4.4.1 Opening of Local TV launch queue**

Sky opened a launch queue for Local TV simulcasts broadcast in HD or SD on 16 September 2013. For

the purposes of this section 4.4, a Local TV simulcast means a “simulcast local service” as defined in *The Code of Practice for Electronic Programme Guides (Addition of Programme Services) Order 2011*.

##### **4.4.2 Adding a Local TV simulcast to the Local TV launch queue**

In order for a Local TV simulcast to be added to the Local TV launch queue, the broadcaster of the Local TV simulcast or person appointed by the broadcaster must send the following documentation via email to [channels.operations@sky.uk](mailto:channels.operations@sky.uk):

- (i) the name of the proposed Local TV simulcast;
- (ii) the broadcaster of the proposed Local TV simulcast (which must be the same as the broadcaster of the corresponding Local TV channel broadcast on DTT);
- (iii) the allocated launch date of the corresponding Local TV channel on DTT;
- (iv) the name and contact details of persons representing the broadcaster of the proposed Local TV simulcast;
- (v) a copy of the broadcasting licence(s) (or equivalent authorisation(s)) permitting the broadcast of the proposed Local TV simulcast by satellite in the regions where the channel will be available via the EPG;
- (vi) a copy of Ofcom’s award of the broadcaster’s Local Digital Television Programme Service (“LDTPS”) licence permitting the broadcast of the corresponding Local TV channel by DTT in the region where the Local TV simulcast will be available via the EPG;
- (vii) the registered company number for the broadcaster, if it is incorporated in England and Wales, and a copy of the certificate of incorporation, if it is not incorporated in England and Wales; and
- (viii) sample schedules for 7 days’ programming for the proposed Local TV simulcast.

Any application made by a broadcaster to add a Local TV simulcast to the Local TV launch queue

will be disregarded if:

- (i) that broadcaster has any overdue debts to Sky for EPG, conditional access and/or access control services; or
- (ii) it is made other than via email to the nominated address.

In the event that a broadcaster makes an application that is disregarded for any of the aforementioned reasons, Sky shall notify the broadcaster as soon as reasonably practicable and in any case within 5 working days that the application has been disregarded.

Should the broadcaster wish to make a fresh application, it may do so, for so long as the Local TV launch queue remains open. Sky shall consider that application afresh and in accordance with the rules set out in the then current Listing Methodology.

Sky will notify a broadcaster as soon as reasonably practicable and in any case within 5 working days of receipt of a valid and complete application to add a channel(s) to the Local TV launch queue that its Local TV simulcast(s) has/have been added to the Local TV launch queue.

Local TV simulcasts will be added to the Local TV launch queue in the order in which valid and complete applications are received by Sky.

Sky will not launch a Local TV simulcast where a launch poses an unacceptable risk to the stability of the Sky digital satellite platform.

#### **4.4.3 Allocation of launch dates and timelines for launch**

Sky will contact the broadcaster of a Local TV simulcast in the Local TV launch queue with a proposed launch date for its service which shall be:

- (i) on or after the day that the corresponding Local TV channel is scheduled to launch on DTT; and
- (ii) no less than 10 weeks from the date when the broadcaster is informed by Sky of the proposed launch date.

The broadcaster must confirm their acceptance of the proposed launch date by (i) signing a standard acceptance form and (ii) completing and returning to Sky a standard information form, within a specified deadline.

Sky will not allocate launch dates which fall during the annual platform freeze (see section 6.2 for further detail of the annual platform freeze).

If the broadcaster is required to pay a deposit in accordance with Sky's deposit policy from time to time (see section 5 of the Listing Methodology), the broadcaster must also pay such deposit and sign a deposit agreement within the specified deadline.

If a broadcaster does not by the specified deadline (i) sign the standard acceptance form; (ii) complete and return to Sky the standard information form; and (iii) pay the deposit (where required), the service will be removed from the Local TV launch queue.

Once a broadcaster has accepted a launch date, Sky will inform the broadcaster of the operational deadlines that must be met in order to ensure the launch of their Local TV simulcast into the EPG on such date. If a broadcaster:

- (i) does not comply with such operational deadlines; or
- (ii) does not launch its service into the EPG within 7 days of the intended launch date

(except where the launch of the channel on DTT has been postponed, in which case Sky will allocate a new launch date as close as possible to the revised DTT launch date provided that the broadcaster has complied with all operational deadlines in respect of the launch of the channel into Sky's EPG); or

- (iii) has not provided sufficient funds to clear any debts owed by the broadcaster to Sky as at the date of the proposed launch for EPG, conditional access and/or access control services; or
- (iv) has not, at least 4 weeks prior to the channel's intended launch date, provided Sky with a copy of the LDTPS licence permitting the broadcast of the corresponding Local TV channel by DTT in the region where the Local TV simulcast will be available via the EPG,

it will forfeit its launch date, and the affected service will be removed from the Local TV launch queue.

The broadcaster of the service must enter into an EPG Services Agreement and Conditional Access Agreement for regionalisation services with Sky before the intended launch date.

#### **4.4.4 Allocation of channel numbers for Local TV simulcasts**

Sky will allocate channel numbers for Local TV simulcasts in accordance with the provisions of section 3 of this Listing Methodology.

Sky shall be entitled to suspend the provision of EPG services in respect of a channel that has launched via the Local TV launch queue if such service ceases to qualify as a Local TV simulcast and Sky may permanently terminate such listing in accordance with the relevant EPG Services Agreement if the listing remains suspended for one (1) month or more. Sky shall consult with the broadcaster before exercising its right to suspend such EPG listing.

### **4.5 Radio launch queue**

#### **4.5.1 Adding a channel to the radio launch queue**

In order for a channel to be added to the radio launch queue, a broadcaster of a radio station or person appointed by the broadcaster must send the following documentation via email to [channels.operations@sky.uk](mailto:channels.operations@sky.uk):

- (i) the name of the proposed radio station;
- (ii) the broadcaster of the proposed radio station;
- (iii) the name and contact details of persons representing the broadcaster
- (iv) a copy of the radio broadcasting licence(s) (or equivalent authorisation(s)) permitting the broadcast of the proposed radio station, as a radio service, by satellite in the region where the station will be available via the EPG;
- (v) the registered company number for the broadcaster, if it is incorporated in England and Wales, and a copy of the certificate of incorporation, if it is not incorporated in England and Wales; and
- (vi) sample schedules for 7 days' programming for the proposed radio station

Any application made by a broadcaster to add a channel to the radio launch queue will be disregarded if:

- (i) that broadcaster has any overdue debts to Sky for EPG, conditional access and/or access control services; or
- (ii) it is made other than via email to the nominated address.

In the event that a broadcaster makes an application that is disregarded for any of the aforementioned reasons, Sky shall notify the broadcaster as soon as reasonably practicable and in any case within 5 working days that the application has been disregarded.

Should the broadcaster wish to make a fresh application, it may do so, for so long as the radio launch queue remains open. Sky shall consider that application afresh and in accordance with the rules set out in the then current Listing Methodology.

Sky will notify a broadcaster as soon as reasonably practicable and in any case within 5 working days of receipt of a valid and complete application to add a station(s) to the radio launch queue that its station(s) has/have been added to the radio launch queue.

Stations will be added to the radio launch queue in the order in which valid and complete applications are received by Sky.

Sky will not launch a radio station where a launch poses an unacceptable risk to the stability of the Sky digital satellite platform.

#### **4.5.2 Allocation of launch dates and timelines for launch**

Sky will contact the broadcaster of a radio service in the radio launch queue with a proposed launch date for its service no less than 10 weeks prior to such date. The broadcaster must confirm their acceptance of the intended launch date by (i) signing a standard acceptance form and (ii) completing and returning to Sky a standard information form, within a specified deadline.

Sky will not allocate EPG launch dates which fall during the annual platform freeze (see section 6.2 for further detail of the annual platform freeze).

If the broadcaster is required to pay a deposit in accordance with Sky's deposit policy from time to time (see section 5 of the Listing Methodology), the broadcaster must also pay such deposit and sign a deposit agreement within the specified deadline.

If a broadcaster does not by the specified deadline (i) sign the standard acceptance form; (ii) complete and return to Sky the standard information form; and (iii) pay the deposit (where required), the service will be removed from the radio launch queue.

Once a broadcaster has accepted an EPG launch date, Sky will inform the broadcaster of the operational deadlines that must be met in order to ensure the launch of their service into the EPG on such date. If a broadcaster:

- (i) does not comply with such operational deadlines; or
- (ii) does not launch its service into the EPG within 7 days of the intended launch date; or
- (iii) has not provided sufficient funds to clear any debts owed by the broadcaster to Sky as at the date of the proposed launch for EPG, conditional access and/or access control services,

it will forfeit its launch date, and the affected service will be removed from the radio launch queue.

The broadcaster of the radio service must enter into an EPG Services Agreement with Sky before the

intended launch date.

### **4.5.3 Compliance with rules applying to radio stations**

Radio stations that launch into the EPG in accordance with section 4.5 of this Listing Methodology must meet the minimum programming and technical requirements as set out in section 1.

## **4.6 Service variants**

The memory issues affecting set top boxes described above are impacted not only by the launch of new channels and radio stations, but also by the launch of other new services which are allocated a service ID by Sky. This includes service variants. As the number of service IDs which Sky is able to allocate is finite, Sky needs to closely monitor and control the allocation of service IDs going forward.

### **4.6.1 Service Variants**

Sky allows broadcasters to make different variants of their services available via a single channel number (whether to different regions or different categories of viewers). Sky will continue to facilitate the launch of service variants provided that any new variant simply replaces the service available in the EPG at the relevant channel number in a given region or in respect of particular types of viewers. Sky will generally allocate a launch date to a service variant on a first-come-first served basis, but reserves the right not to allocate a launch date if Sky reasonably considers that the launch of the new variant will not provide sufficient additional value to viewers to justify the allocation of an additional service ID. Such launches will continue to be made in a controlled manner to minimise their impact on set top box memory. Broadcasters wishing to launch service variants should discuss their requirements with Sky.

## **SECTION FIVE: DEPOSIT POLICY FOR NEW LAUNCHES AND EPG AGREEMENT RENEWALS & TRANSFERS**

A broadcaster or distributor may be required to provide a deposit to Sky as security for the charges payable under their EPG Services Agreement. This section 5 sets out Sky's policy in relation to deposits for EPG Services Agreements.

For the purposes of this section 5, a broadcaster or distributor will generally be considered to not have an acceptable payment history with Sky for platform services if the broadcaster or distributor (or any closely connected company to such broadcaster or distributor) has, on 2 or more occasions in the past 3 years, failed to pay any invoice issued to it for EPG, conditional access or access control services within 60 days of the due date for such invoice. A company will be considered to be closely connected to another if they have any common major shareholders or common directors.

### **5.1 Deposit payable prior to launch into the EPG**

Any broadcaster or distributor which does not hold a current EPG Services Agreement, or which holds such an agreement but has held such an agreement for a period of less than two years or which does not have an acceptable payment history with Sky for platform services (as described below), may be required to pay a deposit equal to 3 months' charges for EPG services (including VAT) prior to launch of their service into the EPG.

Where a broadcaster or distributor is required to pay a deposit, Sky will send the broadcaster or distributor a standard deposit agreement when it allocates the EPG launch date. The broadcaster or distributor must sign the agreement and pay the deposit within 14 days of being allocated its launch date. If the broadcaster or distributor fails to sign the agreement and pay the deposit within such period, the service will be permanently removed from the HD/3D launch queue, the Local TV launch queue, or the radio launch queue (as appropriate).

Where the broadcaster or distributor has accepted the intended launch date and paid the required deposit, but fails to launch the service on or within 7 days of the intended launch date, then the deposit will be reimbursed to the broadcaster/distributor. In such a case the service will be permanently removed from the HD/3D launch queue, the Local TV launch queue, or the radio launch queue (as appropriate).

### **5.2 Deposit payable upon transfer or renewal of an EPG Services Agreement**

Before renewing an EPG Services Agreement, Sky will review whether the broadcaster or distributor has an acceptable payment history with Sky for platform services. If the broadcaster or distributor does not have an acceptable payment history with Sky for platform services, Sky may require the broadcaster or distributor to pay a deposit equal to 3 months' EPG charges (including VAT) prior to renewal of the relevant EPG Services Agreement.

When the right to an EPG listing transfers between entities, Sky will review whether the transferee has an acceptable payment history with Sky for platform services. If the transferee:

- (i) does not have an acceptable payment history with Sky for platform services; or
- (ii) has held an EPG Services Agreement for a period of less than two years; or
- (iii) does not hold a current EPG Services Agreement,

then Sky may require the transferee to pay a deposit equal to 3 months' EPG charges (including VAT) prior to renewal or transfer of the relevant EPG Services Agreement.

### **5.3 Deposit payable on change of control**

When the broadcaster or distributor has undergone a Change of Control as defined in the broadcaster's or distributor's EPG Services Agreement, and the EPG Services Agreement requires the broadcaster/distributor to notify Sky within 28 days after a Change of Control taking effect, then Sky will review whether the entity which controls the broadcaster or distributor as a result of such Change of Control has an acceptable payment history with Sky for platform services. If the controlling entity:

- (i) does not have an acceptable payment history with Sky for platform services; or
- (ii) has held an EPG Services Agreement for a period of less than two years; or
- (iii) does not hold a current EPG Services Agreement,

then Sky may require the broadcaster/distributor to pay a deposit equal to 3 months' EPG charges (including VAT), failing which Sky reserves the right to terminate the EPG Services Agreement with effect from the date 30 days following the date of the deposit invoice.

### **5.4 Interest on deposits**

Sky shall pay interest at the equivalent of the base rate from time to time of HSBC Bank plc, unless specified otherwise in a Broadcaster's EPG Services Agreement.

### **5.5 Refund of deposits**

Sky will refund the deposit and any interest payable, less any outstanding charges, upon expiry or earlier termination of the relevant EPG Services Agreement.

## **SECTION SIX: OTHER**

### **6.1 Allocation of any additional EPG positions in the future**

It is possible that Sky will, at some time in the future, be in a position to launch additional services into the EPG, either because existing SD and/or HD and/or 3D services cease to be so listed, or because technological developments permit a greater number of SD services to be listed without adversely affecting set top box memory.

In the event that additional EPG positions do become available, such that Sky is able and proposes to facilitate the launch of additional services, Sky will, as soon as reasonably practicable, consult with broadcasters about the methodology that it proposes to apply in allocating such additional EPG positions to prospective new services.

If broadcasters decide to purchase EPG positions from other broadcasters, they should recognise that, were circumstances to allow a significant number of EPG positions to be made available in the future, the amounts they have paid in purchasing EPG positions may not be reflective of the future value of those positions.

### **6.2 Annual platform freeze**

Sky implements an annual platform freeze for approximately 3 weeks over the Christmas period, during which Sky ceases service launches and limits or ceases any other non-essential changes to the EPG. Sky may also implement platform freezes at other times if it is concerned about the stability, safety or integrity of Sky's digital satellite platform.

### **6.3 Consultations**

Sky will continue to update this Listing Methodology from time to time (in consultation with broadcasters) as its method for allocating EPG listings evolves. Where Sky reasonably believes that a broadcaster has taken action (after publication of a consultation proposal) which is contrary to the aims of that consultation proposal, and where Sky subsequently decides to implement that consultation proposal, then Sky may take appropriate steps to protect and maintain the aims of that consultation proposal. Sky will consider appropriate steps on a case-by-case basis; appropriate steps may involve, for example, Sky moving a broadcaster's channel to another genre or to the bottom of its appropriate genre.

### **6.4 Channel licensing arrangements**

Sky is required with effect from 1 January 2021 to secure that the only channels that are listed or promoted by, or which can be accessed through, Sky's EPG are channels that:

- are provided by or under a broadcasting licence granted by Ofcom, or
- do not fall, in pursuance of section 211(1) of the Communications Act 2003, to be regulated by Ofcom.

In order to help ensure Sky is able to meet this new condition, broadcasters must ensure that they have a valid broadcasting licence(s) (or equivalent authorisation(s)) permitting the broadcast of each channel by satellite in each of the region(s) and/or territories where the channel will be available via the EPG and must immediately inform Sky if any channel will cease to be appropriately licensed (or authorised) in any such region(s) and/or territory. Broadcasters must also promptly provide Sky with a copy of any such licence (or authorisation) upon request.

In the event that Sky reasonably believes that a broadcaster has failed to meet the relevant requirements of this section 6.4, Sky shall be entitled, to the extent reasonably necessary to identify, remedy and/or rectify the relevant breach, to suspend the provision of EPG services in respect of the affected channel, provided that Sky shall, to the extent it considers reasonably practicable, consult with the broadcaster.